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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,346	11/17/2003	Richard Sutton	SYMAP031	2398

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EXAMINER	
LEMMA, SAMSON B	
ART UNIT	PAPER NUMBER
2132	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/715,346	SUTTON ET AL.	
	Examiner	Art Unit	
	Samson B. Lemma	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in reply to application filed on November 18, 2003. Claims 1-23 have been examined.

Priority

2. This application does not claim priority of any application. Therefore, the effective filling data for the subject matter defined in the pending claims of this application is **November 18, 2003.**

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-5, 12-23** are rejected under 35 U.S.C. 102(e) as being anticipated by **Campbell et al.** (hereinafter referred to as **Campbell**) (U.S. Publication No. 2004/0003284 A1) (filed on Jun 26, 2002).

5. As per independent claims 1,22 and 23 and dependent claims 12-16

Campbell discloses a method for tracking a virus [Abstract] *(As it has been disclosed on the abstract the method is used to detect possible virus attacks and identify the source of the attacks within a computer network")* **comprising:**

- **Copying information from a first packet** *[Abstract and paragraph 0025-0026] (On abstract and on paragraph 0026, it has been disclosed that in an off-line scan mode, the* ***packets are copied*** *and are passing through the switch and on paragraph 0025, it has been disclosed that because the ports of a network switch are directly connected to respective physical computers in the network, the detection of a virus signature or a virus attack pattern by the switch allows an* ***unambiguous determination of the source of the network traffic*** *that contains the virus attack and this implies that the detection of the virus includes getting information about the packets including the source and the destination address of the packets and such information being part of the packets are also copied.)*

- **Passing through a second packet** *[Abstract and paragraph 0025-0026] (On abstract and on paragraph 0026, it has been disclosed that in an In an off-line scan mode, the* ***packets are copied*** *and are passing through the switch and on paragraph 0025, it has been disclosed that because the ports of a network switch are directly connected to respective physical computers in the network, the detection of a virus signature or a virus attack pattern by the switch allows an* ***unambiguous determination of the source of the network traffic*** *that contains the virus attack and this implies that the detection of the virus includes getting information about the packets including the source and the destination address of the packets and such information being part of the packets are also copied. It is inherently included that the second packets or the subsequent packets which has the same source and destination address will not be copied or saved but will be passed through with out being scanned since it is unnecessary to do so. Or the second packets which is interpreted by the office as those packets which are received when the system is in an on-line scan mode are instead scanned dynamically and forwarded to their destination ports without being*

copied or saved and this meets the limitation, "passing through a second packet"*);*

- **Saving the copied information;** [Abstract] *(As it disclosed on the abstract, In an off-line scan mode, a copy of the packets passing through* ***the switch is saved into a packet queue for scanning.)***

- **Determining whether an infection has been received, wherein the infection is associated with a network transmission, and wherein the network transmission is also associated with the first packet; [paragraph 0027]** *(In one embodiment, the virus scanner 126 of the network switch 72 processes the packets 122 in the packet queue 120 on a first-in-first-out (FIFO) basis. In other words, the oldest packet in the queue 120 will be scanned first for virus signatures or attack patterns. To scan a packet, the virus scanner 126 reads the content of the packet and matches it against the virus signatures stored in the virus information database 100* ***and determines whether this pac****ket and previous packets from the same port together show a discernable pattern of virus attacks.)* **and**

- **retrieving the saved information. [paragraph 0028] (** When the network switch 72 detects a virus signature or attack pattern in the network packets passing through its ports, it can take various steps to prevent the spreading of the virus. In a preferred embodiment, depending on the current alert set by the system administrator, the network switch 72 performs one of three actions. And on the same paragraph the following has been disclosed. "The network switch can alert the computer from which the virus attack originated that it is infected, or alert the system administrator that the computer is infected," and in order to alert the computer from which the virus attack is originated the system has to

retrieve the source address and other information from the packets that are already copied and saved and finally scanned.]

6. **As per claim 2-4 and 17-21 Campbell discloses a** method as applied to claims above. Furthermore Campbell discloses the method wherein, the information includes a file system location/includes a file name or information includes a network address of a source computer. [*Abstract and paragraph 0025-0026] (On abstract and on paragraph 0026, it has been disclosed that in an In an off-line scan mode, the* ***packets are copied*** *and are passing through the switch and on paragraph 0025, it has been disclosed that because the ports of a network switch are directly connected to respective physical computers in the network, the detection of a virus signature or a virus attack pattern by the switch allows an* ***unambiguous determination of the source of the network traffic*** *that contains the virus attack and this implies that the detection of the virus includes getting information about the packets including the source and the destination address of the packets and also other information included in the packets and such information being part of the packets are also copied.)*

7. **As per claim 5 Campbell discloses a** method as applied to claims above. Furthermore Campbell discloses the method wherein, the information is saved on a receiving computer [See figure 2].

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. **Claims 6-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Campbell et al.** (hereinafter referred to as **Campbell**) (U.S. Publication No. 2004/0003284 A1) (filed on Jun 26, 2002) in view of Lahti et al (hereinafter referred to as **Lahti**) (U.S. Publication No. 2005/0033975 A1) (filed on August 8, 2002)

10. As per dependent claims 6-11 Campbell discloses a method for tracking a virus [Abstract] *(As it has been disclosed on the abstract the method is used to detect possible virus attacks and identify the source of the attacks within a computer network")* **comprising:**

- **Copying information from a first packet** *[Abstract and paragraph 0025-0026] (On abstract and on paragraph 0026, it has been disclosed that in an off-line scan mode, the* ***packets are copied*** *and are passing through the switch and on paragraph 0025, it has been disclosed that because the ports of a network switch are directly connected to respective physical computers in the network, the detection of a virus signature or a virus attack pattern by the switch allows an* ***unambiguous determination of the source of the network traffic*** *that contains the virus attack and this implies that the detection of the virus includes getting information about the packets including the source and the destination address of the packets and such information being part of the packets are also copied.)*
- **Passing through a second packet** *[Abstract and paragraph 0025-0026] (On abstract and on paragraph 0026, it has been disclosed that in an In an off-line scan mode, the* ***packets are copied*** *and are passing through the switch and on paragraph 0025, it has been disclosed that because the ports of a network switch are directly connected to respective physical computers in the network, the detection of a virus signature or a virus attack pattern by the switch allows an* ***unambiguous determination of the source of the network traffic*** *that*

contains the virus attack and this implies that the detection of the virus includes getting information about the packets including the source and the destination address of the packets and such information being part of the packets are also copied. It is inherently included that the second packets or the subsequent packets which has the same source and destination address will not be copied or saved but will be passed through with out being scanned since it is unnecessary to do so. Or the second packets which is interpreted by the office as those packets which are received when the system is in an on-line scan mode are instead scanned dynamically and forwarded to their destination ports without being copied or saved and this meets the limitation, "passing through a second packet"*);*

- **Saving the copied information;** [Abstract] *(As it disclosed on the abstract, In an off-line scan mode, a copy of the packets passing through* ***the switch is saved into a packet queue for scanning****.)*

- **Determining whether an infection has been received, wherein the infection is associated with a network transmission, and wherein the network transmission is also associated with the first packet; [paragraph 0027]** *(In one embodiment, the virus scanner 126 of the network switch 72 processes the packets 122 in the packet queue 120 on a first-in-first-out (FIFO) basis. In other words, the oldest packet in the queue 120 will be scanned first for virus signatures or attack patterns. To scan a packet, the virus scanner 126 reads the content of the packet and matches it against the virus signatures stored in the virus information database 100* ***and determines whether this pac****ket and previous packets from the same port together show a discernable pattern of virus attacks.)* **and**

• **retrieving the saved information. [paragraph 0028]** (When the network switch 72 detects a virus signature or attack pattern in the network packets passing through its ports, it can take various steps to prevent the spreading of the virus. In a preferred embodiment, depending on the current alert set by the system administrator, the network switch 72 performs one of three actions. And on the same paragraph the following has been disclosed. "The network switch can alert the computer from which the virus attack originated that it is infected, or alert the system administrator that the computer is infected," and in order to alert the computer from which the virus attack is originated the system has to retrieve the source address and other information from the packets that are already copied and saved and finally scanned.]

Campbell does not explicitly teach that the determination of when a virus has been received is performed when an attempt to open/read/write/create/access/delete a file occurs.

However, in the same field of endeavor, **Lahti discloses** that Various anti-virus applications are available on the market today. These tend to work by maintaining a database of signatures or fingerprints for known viruses. With a "real time" scanning application, when a user **tries to perform an operation on a file, e.g. open, save, or copy, the request is redirected to the anti-virus application.** If the application has no existing record of the file, the file is scanned for known virus signatures. If a virus is identified in a file, the anti-virus application reports this to the user, for example by displaying a message in a pop-up window. [Paragraph 0004]

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to combine the feature of determining when a virus has been received is performed when an attempt open/read/write/create/access a

file occurs as per teachings of **Lahti** in to the method as taught by **Campbell** to provide security by preventing the propagation of the virus by adding the identity of the infected file to a register of infected files and when a subsequent operation on the file is requested, the anti-virus application first checks the register to see if the file is infected If it is infected, it can easily denies the access.[See **Lahti** paragraph 0004]

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.(See PTO-Form 892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samson B Lemma whose telephone number is 571-272-3806. The examiner can normally be reached on Monday-Friday (8:00 am---4: 30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BARRON JR GILBERTO can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-873-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAMSON LEMMA
S.L.
06/10/2007

Benjamin E. Lanier
Examiner AU 2132